

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
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DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Reorganized Debtors.	:	(Jointly Administered)
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	:	
ACE AMERICAN INSURANCE COMPANY	:	
and PACIFIC EMPLOYERS INSURANCE	:	
COMPANY,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Adv. Pro. No. 09-01510(RDD)
	:	
DELPHI CORPORATION; STATE OF	:	
MICHIGAN WORKERS' COMPENSATION	:	
INSURANCE AGENCY; and STATE OF	:	
MICHIGAN FUNDS ADMINISTRATION,	:	
	:	
Defendants.	:	
	:	
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ORDER (I) DENYING DEFENDANTS MICHIGAN WORKERS' COMPENSATION AGENCY'S AND MICHIGAN FUNDS ADMINISTRATION'S JOINT MOTION TO DISMISS FOR LACK OF JURISDICTION AND IN THE ALTERNATIVE, FOR ABSTENTION AND (II) DENYING IN PART DEFENDANTS MICHIGAN WORKERS' COMPENSATION AGENCY'S AND MICHIGAN FUNDS ADMINISTRATION'S JOINT AMENDED MOTION TO DISMISS PLAINTIFFS' ADVERSARY COMPLAINT AND DPH HOLDINGS CROSSCLAIM FOR FAILURE TO STATE A CLAIM, LACK OF JURISDICTION, AND IN THE ALTERNATIVE, FOR ABSTENTION

Upon the defendants' Michigan Workers' Compensation Agency And State of Michigan Funds Administration Joint Motion To Dismiss For Lack Of Jurisdiction And In The Alternative, For Abstention (Docket No. 15) (the "Motion to Dismiss"); defendants' Michigan Workers' Compensation Agency And Michigan Funds Administration Joint Memorandum Of Law In

Support Of Joint Motion To Dismiss For Lack Of Jurisdiction And In The Alternative, Abstention (Docket No. 17) and Exhibit Thereto (Docket No. 18); plaintiff's Brief In Opposition To Motion To Dismiss Of State of Michigan Workers' Compensation Insurance Agency And State of Michigan Funds Administration (Docket No. 28); Declaration of Lewis R. Olshin (Docket No. 29); Memorandum of DPH Holdings Corp. (Formerly Delphi Corporation) In Opposition to Defendants Michigan Workers' Compensation Agency's And Michigan Funds Administration's Joint Motion to Dismiss For Lack Of Jurisdiction And In The Alternative, For Abstention (Docket No. 30); defendants' Michigan Workers' Compensation Agency's And Michigan Funds Administration's Joint Amended Motion To Dismiss Plaintiffs' Adversary Complaint And DPH Holdings Crossclaim For Failure to State A Claim, Lack Of Jurisdiction, And In The Alternative, For Abstention (the "Amended Motion to Dismiss") (Docket No. 43); defendants' Michigan Workers' Compensation Agency's And Michigan Funds Administration's Brief In Support Of Joint Amended Motion To Dismiss Plaintiffs' Adversary Complaint And DPH Holdings Crossclaim For Failure to State A Claim, Lack Of Jurisdiction, And In The Alternative, For Abstention (Docket No. 44); defendants' Michigan Workers' Compensation Agency's And Michigan Funds Administration's Joint Reply To Memorandum of DPH Holdings Corp. (Formerly Delphi Corporation) In Opposition to Defendants Michigan Workers' Compensation Agency's And Michigan Funds Administration's Joint Motion to Dismiss For Lack Of Jurisdiction And In The Alternative, For Abstention (Docket No. 45); Joint Reply To Plaintiff's Brief In Opposition to Motion to Dismiss Of State Of Michigan Workers' Compensation Agency And Michigan Funds Administration (Docket No. 46); plaintiff's Reply To Memorandum of DPH Holdings Corp. (Formerly Delphi Corporation) In Opposition to Defendants Michigan Workers' Compensation Agency's And Michigan Funds Administration's

Joint Motion to Dismiss For Lack Of Jurisdiction And In The Alternative, For Abstention (Docket No. 51); Corrected Joint Reply To Plaintiffs' Brief In Opposition To Motion To Dismiss Of State Of Michigan Workers' Compensation Agency And Michigan Funds Administration (Docket No. 53); plaintiff's Brief In Response to the (I) Joint Reply and (II) Amended Motion to Dismiss of State of Michigan Workers' Compensation Agency And State of Michigan Funds Administration (Docket No. 54); Declaration of Lewis R. Olshin In Support of Plaintiff's Response (Docket No. 55); and upon the Supplemental Memorandum of DPH Holdings Corp. (Formerly Delphi Corporation) In Opposition To Defendants Michigan Workers' Compensation Agency's and Michigan Fund Administration's Joint Amended Motion to Dismiss Plaintiffs' Adversary Complaint And DPH Holdings Cross Claim for Failure To State A Claim, Lack Of Jurisdiction, And In The Alternative, For Abstention (Docket No. 57); and the Bankruptcy Court having considered the arguments of Counsel at the hearing held on January 8, 2010; and after due deliberation thereon, and for the reasons stated in the Court's Amended Bench Ruling, a copy of which is attached hereto as Exhibit A, which modifies and supersedes the Court's bench ruling set forth in the January 12, 2010 transcript, it is hereby

ORDERED that:

1. The Motion to Dismiss is DENIED.
2. The Amended Motion to Dismiss is DENIED to the extent that the Amended Motion to Dismiss seeks to dismiss the complaint and defendant DPH Holdings Corp.'s (formerly Delphi Corporation) crossclaim for lack of jurisdiction or, in the alternative, seeks abstention, but not as to that portion of the Amended Motion to Dismiss that seeks to dismiss the complaint and defendant DPH Holdings Corp.'s (formerly Delphi Corporation)

crossclaim under Fed.R.Civ.P. 12(b)(6), incorporated by Fed.R.Bankr.P. 7012(b), for failure to state a claim.

3. The Amended Motion to Dismiss is adjourned to the extent that the Amended Motion to Dismiss seeks to dismiss the complaint and defendant DPH Holdings Corp.'s (formerly Delphi Corporation) crossclaim pursuant to Fed.R.Bankr. P. 7012(b) and Fed.R.Civ.P. 12(b)(6).

4. This Court shall retain jurisdiction to hear and determine this Adversary Proceeding.

Dated: White Plains, New York
January 25, 2010

/s/Robert D. Drain
Robert D. Drain (U.S.B.J.)